

OCT 27 2005

Attorney Docket No: 38-15(52826)B

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*In re* application of: Alan L. KRIZ *et al.* ) Examiner: Ashwin Mehta  
Utility Patent Application No.: 10/732,721 ) Art Unit: 1638  
Filed: 10 December 2003 )  
Title: MAIZE EMBRYO-SPECIFIC PROMOTER )  
COMPOSITIONS AND METHODS FOR )  
USE THEREOF )

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir,

**SECOND AMENDMENT AND RESPONSE AFTER FINAL ACTION  
FILED UNDER 37 C.F.R. §1.116**

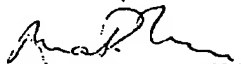
In response to the Final Office Action mailed 18 May 2005 and the Advisory Action mailed 23 September 2005, Applicants respectfully request reconsideration of the application in view of the amendments and remarks submitted herein under 37 C. F. R. §1.116.

**Amendments to the Claims** are provided in the listing of claims which begins on page 3 of this paper.

**Remarks** begin on page 6 of this paper.

**CERTIFICATE OF FACSIMILE TRANSMITTAL – 19 (nineteen) pages**

I hereby certify that this Response to Office Action and Amendment is being facsimile transmitted to the USPTO's Central Facsimile Number, i. e., (571) 273-8300, on **27 October 2005**.

  
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Applicants submit this Second Amendment and Response in response to the Examiner's remarks in the Advisory Action mailed 23 September 2005. The proposed amendments do not add new claims, do not raise the issue of new matter, and do not present new issues requiring further consideration or search. The proposed amendments simplify the issues under consideration. Applicants therefore respectfully request consideration and entry of the proposed amendments.

Also included as an **Attachment** is a copy (9 pages) of the Board of Patent Appeals and Interferences' Opinion in support of the Decision on Appeal under 35 USC §134 in *Ex parte* Houmard (United States Patent Application No. 09/757,089, Appeal No. 2005-0409).

This response is being timely filed within six (6) months of the mailing date of the Final Rejection, and Applicants hereby petition for a three (3) month extension of time. The fee for this extension may be charged to Deposit Account No. 134,125 along with any other additional fees which may be required with respect to this paper; any overpayment should be credited to the account.